

JAMIE CASSO

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May 15, 1998

Mr. Lawrence Noble
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463


MUR 4749

Dear Mr. Noble:

Enclosed is a complaint against the Grace F. Napolitano for Congress committee, FEC ID number C00334706. This complaint is based on four violations of FEC regulations found in the March 31, 1998, Napolitano for Congress FEC filing.

I trust you will expeditiously investigate these complaints and notify me of your findings. If you have any questions, please feel free to call me at 562-942-1152.

Sincerely,


JAMES M. CASSO

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Complaints Against Napolitano for Congress Committee
FEC ID C00334706

Complaint Number I Loans Section (Schedule C):

Napolitano loaned her campaign on three different occasions, March 16, March 30 and March 31, 1998, a total of \$180,000. For the loan, she is charging her campaign 18% interest per annum. FEC regulations for candidate loans from personal funds must be paid back "at a commercially reasonable rate." See FEC Campaign Guide, Chapter 3, Section 11, page 11. Eighteen percent is not a commercially reasonable rate.

Complaint Number II Itemized Disbursements- (Schedule B):

Napolitano's headquarters rent is reported as an in kind contribution by local developer Luigi Vernola. The rent for the month of March is reported at \$250.00. Given the size of the office space and its location, this contribution is under valued. If valued correctly it will exceed the individual monetary contribution limit for the primary campaign. According to local real estate professionals, the per month value of the office space as reported by Napolitano is far below fair market rent. Assuming Napolitano uses this facility throughout her primary campaign, this reported contribution is valued less than "the price the facility would cost if rented at the time the contribution is made." See FEC Campaign Guide, Chapter 2, Section 2, page 5.

Complaint Number III Napolitano for Congress misreported candidate loan:

Under FEC Campaign Guide, Chapter 3, Section 11, page 11, "a candidate may loan personal funds to the committee provided the committee reports the loan and the interest rate at the outset on Schedule C." On Schedule C, Napolitano, reports an interest rate of 0.0% from March 16, 1998 – May 2, 1998 and an interest rate of 18% from May 3, 1998, until paid. FEC regulations do not permit the conversion of a loan's interest rate from one amount to another. The conversion from 0.0% to 18% is not permissible.

Complaint Number IV Napolitano fails to properly disclose the origin of personal funds:

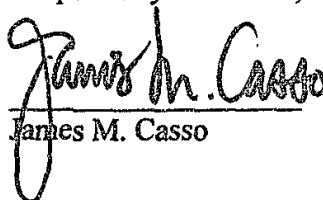
On May 2, 1998, in a Whittier Daily News article, Napolitano's campaign consultant, Harvey Englander, reported that the origin of Napolitano's loan came from her retirement account. It is unclear whether Napolitano will be required to pay back the \$180,000. Englander claims that she has to pay a penalty on the \$180,000, equaling 18%. If

Napolitano is required to pay back the \$180,000, the character of the loan would be a "bank loan for campaign related purposes." As such, the Napolitano for Congress committee should list the retirement fund as the "source of the loan – rather than the candidate" and any interest payments permitted should be paid to the retirement fund, not Napolitano. See FEC Campaign Guide, Chapter 3, Section 11, page 11. Napolitano lists the \$180,000 of loans in three separate entries. Her committee reports the origins of the loans as "candidate's personal funds." Given Napolitano's propensity for borrowing money to finance her campaigns for state and local offices from local developers, the FEC should investigate the actual origins of the loans to ensure the funds are from Napolitano, not third parties.

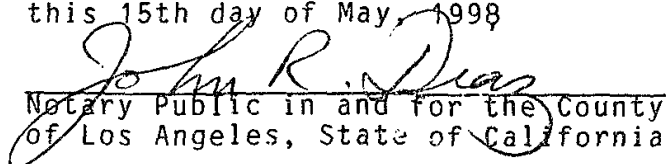
Complaint Number V – Napolitano's loan violates FEC contribution limits

FEC regulations state that a candidate's personal contributions are not subject to any limitations, so long as the candidate has a legal right of control over and legal title to or an equitable interest in the personal funds at the time of candidacy. See FEC Campaign Guide, Chapter 3, Section 11, page 11. Under California's community property laws, "pension funds" are jointly held by a husband and wife. Each has a one-half community property interest in the pension funds. Because Napolitano's husband has a one-half community property interest in her pension funds, her use of the funds violates this provision. While Napolitano may have a legal right of control, legal title to or an equitable interest in the pension funds under California law, her interest is in only one-half of the total pension. Her use of her pension funds in excess of her one-half community property interest violates FEC regulations and is illegal.

Respectfully submitted,


James M. Casso

SUBSCRIBED AND SWORN to before me
this 15th day of May, 1998


Notary Public in and for the County
of Los Angeles, State of California

